

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

In re Search of Express Mail parcel with)	ORDER
tracking number EQ593683657US)	Case No. 1:06-mj-034

Before the court is Alberto DeGracia's Motion to Unseal Search Warrant. Mr. DeGracia requests an order releasing the following materials associated with the issuance of a search warrant on September 5, 2006, to United States Postal Inspector Matthew Schmitz: (1) a copy of the search warrant; (2) copy of the search warrant return; (3) copy of any materials offered in support of the application for the search warrant; (4) transcript of any hearing held in conjunction to the issuance of the search warrant; and (5) any other materials regarding the search warrant presently in the possession of the Clerk's Office.

Mr. DeGracia has been charged in state court with possession of marijuana with intent to deliver. His charges apparently stem for events in set in motion by the court's issuance of the search warrant in question. He contends that his ability to prepare his defense hinges in part upon his ability to access the search warrant and assess whether there was probable cause to support its issuance.

On December 21, 2006, the court directed Clerk's Office to provide the government with a copy of Mr. DeGracia's motion. In addition, it advised the government that it had until January 3, 2007, to file any objections or otherwise respond to Mr. DeGracia's motion.

The government has advised the court that it does not intend to file a response to Mr. DeGracia's motion. Accordingly, the Clerk's Office is directed to provide Mr. DeGracia's attorney with all information in its possession regarding the search warrant, including the search warrant

itself, the application for the search warrant, and the supporting affidavits. Information provided to defense counsel is to be used solely for preparation of Mr. DeGracia's defense of his pending state charges.

IT IS SO ORDERED.

Dated this 3rd day of January, 2007.

/s/ Charles S. Miller, Jr.

Charles S. Miller, Jr.
United States Magistrate Judge